

May 22, 2017

**VIA EMAIL ONLY**

Regional Freedom of Information Officer  
U.S. EPA, Region 10  
Office of Ecosystems, Tribal and Public Affairs  
1200 6th Avenue ETPA-124  
Seattle, WA 98101  
Vitellaro.Chandra@epa.gov

Re: FOIA Request Re: Nooksack Indian Tribe Consent Orders/Unilateral Administrative Orders

Dear Mr. Johnson:

On behalf of Michelle Michelle Roberts, a member of the Nooksack Tribe, we hereby request any documents dated or in existence between July 14, 2016 and today, which refer or relate to:

- A July 4, 2016 letter from the EPA to Robert Kelly, Jr., Chairman of the Nooksack Indian Tribe, with six proposed Consent Orders;
- A November 2016 agreement in principle between the EPA and Nooksack Indian Tribe;
- Any meetings or conversations between representatives of the EPA and Nooksack Indian Tribe; or
- March 27, 2017 Unilateral Administrative Orders issued to Robert Kelly, Jr., Chairman of the Nooksack Indian Tribe via letter from Edward Kowalski, Director, Office of Compliance and Enforcement.

For context, please see the attached March 27, 2017 letter to Chairman Kelly from Director Kowalski.

Should you have any questions about this request, please do not hesitate to let us know. Thank you in advance for your assistance.

Very truly yours,



Gabriel S. Galanda  
Attorneys at Law  
[gabe@galandabroadman.com](mailto:gabe@galandabroadman.com)

Attachment





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101-3140

OFFICE OF  
COMPLIANCE AND ENFORCEMENT

MAR 27 2017

Reply To: OCE-101

Chairman Bob Kelly  
Nooksack Indian Tribe  
5016 Deming Road  
Deming, Washington 98244

RE: Unilateral Administrative Orders to Address Safe Drinking Water Act Violations by Six Public Water Systems Owned and Operated by the Nooksack Indian Tribe

Dear Chairman Kelly:

The purpose of this letter is to inform the Nooksack Indian Tribe that the U.S. Environmental Protection Agency (EPA) plans to issue six Unilateral Administrative Orders (Unilateral Orders) to address serious violations of the Safe Drinking Water Act (SDWA) at the public water systems (Systems) referenced below. The EPA will issue the Unilateral Orders unless, by April 3, 2017, the Nooksack Indian Tribe signs and returns the enclosed Administrative Orders on Consent (Consent Orders) or provides evidence that the underlying violations have been fully returned to compliance.

The EPA takes this step only after four years of efforts to cooperatively resolve these SDWA compliance issues with the Nooksack Indian Tribe have failed. In recent weeks, EPA scheduled several calls to speak with Katherine Canete, Nooksack Indian Tribe Councilmember and General Manager, about the violations and possible EPA enforcement response options. However, neither the Councilmember nor any other Nooksack Indian Tribe representatives participated at the appointed times or communicated with EPA by another means.

**Serious Violator of the SDWA and Past Efforts to Address Violations Through Consent Orders**

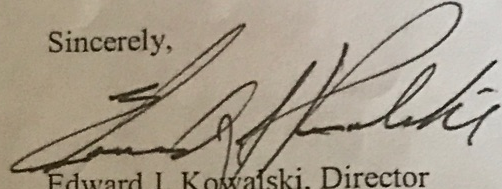
On July 14, 2016, EPA sent a letter with six proposed Consent Orders to you as Chair of the Nooksack Indian Tribe. The Consent Orders contained steps and schedules to bring the Systems (Five Cedars Water System; Nooksack River Casino Water System; Northwood Casino Water System; Rutsatz Road Water System; Sulwhanon Water System; and Whispering Cedars Water System) back into compliance. The letter also informed the Nooksack Indian Tribe that EPA would consider other available enforcement responses for addressing the violations, including the issuance of Unilateral Orders, in the absence of signed Consent Orders or evidence of full return to compliance.

EPA and tribal representatives reached agreement in principle on the Consent Orders in November 2016. To date, EPA has not received any signed Consent Orders nor evidence that the Systems have achieved full compliance. Please be advised that EPA updated the enclosed Consent Orders based on a number of factual and procedural changes since issuing the July 14, 2016, letter, including information on the remedying of some monitoring violations and significant deficiencies.



If the Nooksack Indian Tribe has questions about the Systems' noncompliance and EPA's plans, please contact me at (206) 553-6695, or Adam Baron at (206)553-6361 or baron.adam@epa.gov or have your legal counsel contact Robert Hartman at (206) 553-0029 or hartman.robert@epa.gov to discuss the Unilateral Orders or enclosed Consent Orders. Thank you for your prompt attention to this important matter.

Sincerely,



Edward J. Kowalski, Director  
Office of Compliance and Enforcement

Encl:

1. Proposed Administrative Order on Consent for Five Cedars Water System
2. Proposed Administrative Order on Consent for Nooksack River Casino Water System
3. Proposed Administrative Order on Consent for Northwood Casino Water System
4. Proposed Administrative Order on Consent for Rutsatz Road Water System
5. Proposed Administrative Order on Consent for Sulwhanon Water System
6. Proposed Administrative Order on Consent for Whispering Cedars Water System

cc: Mr. Rick D. George, Vice-Chairman, Nooksack Indian Tribe  
Ms. Katherine Canete, General Manager, Nooksack Indian Tribe  
Ms. Agripina Smith, Treasurer, Nooksack Indian Tribe  
Ms. Nadene Rapada, Secretary, Nooksack Indian Tribe  
Mr. Bob Solomon, Councilmember, Nooksack Indian Tribe  
Ms. Lona Johnson, Councilmember, Nooksack Indian Tribe  
Ms. Charity Bernard, Chief of Staff, Nooksack Indian Tribe  
Mr. Rickie Wayne Armstrong, Tribal Attorney, Nooksack Indian Tribe  
Mr. Richard Edwards, Director, Facilities and Maintenance, Nooksack Indian Tribe  
Mr. Oliver Grah, Water Resource Manager, Nooksack Indian Tribe  
Mr. Joseph Johnson-Bob, Water System Operator, Nooksack Indian Tribe  
Mr. Michael O'Shea, Indian Health Services, U.S. Department of Health and Human Services  
Mr. Matty Haith, Indian Health Services, U.S. Department of Health and Human Services